State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 3863

02/28/2022 Authored by Boldon
The bill was read for the first time and referred to the Committee on Human Services Finance and Policy

A bill for an act

relating to human services; modifying programs for people with mental illness and developmental disabilities; amending Minnesota Statutes 2020, sections 246.131; 253B.18, subdivision 6; Laws 2009, chapter 79, article 13, section 3, subdivision 10, as amended; repealing Minnesota Statutes 2020, sections 246.0136; 252.025, subdivision 7; 252.035.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2020, section 246.131, is amended to read:

246.131 REPORT ON ANOKA-METRO REGIONAL TREATMENT CENTER (AMRTC), MINNESOTA SECURITY HOSPITAL (MSH), AND COMMUNITY BEHAVIORAL HEALTH HOSPITALS (CBHH).

The commissioner of human services shall issue a public ~~quarterly~~ annual report to the chairs and ranking minority leaders of the senate and house of representatives committees having jurisdiction over health and human services issues on the AMRTC, MSH, and CBHH. The report shall contain information on the number of licensed beds, budgeted capacity, occupancy rate, number of Occupational Safety and Health Administration (OSHA) recordable injuries and the number of OSHA recordable injuries due to patient aggression or restraint, number of clinical positions budgeted, the percentage of those positions that are filled, the number of direct care positions budgeted, and the percentage of those positions that are filled.

Sec. 2. Minnesota Statutes 2020, section 253B.18, subdivision 6, is amended to read:

Subd. 6. **Transfer.** (a) A patient who is a person who has a mental illness and is dangerous to the public shall not be transferred out of a secure treatment facility unless it

appears to the satisfaction of the commissioner, after a hearing and favorable recommendation by a majority of the special review board, that the transfer is appropriate. Transfer may be to another state-operated treatment program. In those instances where a commitment also exists to the Department of Corrections, transfer may be to a facility designated by the commissioner of corrections.

(b) The following factors must be considered in determining whether a transfer is appropriate:

(1) the person's clinical progress and present treatment needs;

(2) the need for security to accomplish continuing treatment;

(3) the need for continued institutionalization;

(4) which facility can best meet the person's needs; and

(5) whether transfer can be accomplished with a reasonable degree of safety for the public.

(c) If a committed person has been transferred out of a secure facility pursuant to this subdivision, that committed person may voluntarily return to a secure facility for a period of up to 60 days.

(d) If the committed person is not returned to the original, nonsecure transfer facility within 60 days of being readmitted to a secure facility, the transfer is revoked and the committed person shall remain in a secure facility. The committed person shall immediately be notified in writing of the revocation.

(e) Within 15 days of receiving notice of the revocation, the committed person may petition the special review board for a review of the revocation. The special review board shall review the circumstances of the revocation and shall recommend to the judicial appeal panel whether or not the revocation shall be upheld. The special review board may also recommend a new transfer at the time of the revocation hearing.

(f) No action by the special review board or judicial appeal panel is required if the transfer has not been revoked and the committed person is returned to the original, nonsecure transfer facility with no substantive change to the conditions of the transfer ordered under this subdivision.

(g) The head of the treatment facility may revoke a transfer made under this subdivision and require a committed person to return to a secure treatment facility if:

(1) remaining in a nonsecure setting does not provide a reasonable degree of safety to the committed person or others; or

(2) the committed person has regressed clinically and the facility to which the committed person was transferred does not meet the committed person's needs.

(h) Upon the revocation of the transfer, the committed person shall be immediately returned to a secure treatment facility. A report documenting the reasons for revocation shall be issued by the head of the treatment facility within seven days after the committed person is returned to the secure treatment facility. Advance notice to the committed person of the revocation is not required.

(i) The committed person must be provided a copy of the revocation report and informed, orally and in writing, of the rights of a committed person under this section. The revocation report shall be served upon the committed person and the committed person's counsel. The report shall outline the specific reasons for the revocation, including but not limited to the specific facts upon which the revocation is based.

(j) If a committed person's transfer is revoked, the committed person may re-petition for transfer according to subdivision 5.

(k) A committed person aggrieved by a transfer revocation decision may petition the special review board within seven business days after receipt of the revocation report for a review of the revocation. The matter shall be scheduled within 30 days. The special review board shall review the circumstances leading to the revocation and, after considering the factors in paragraph (b), shall recommend to the judicial appeal panel whether or not the revocation shall be upheld. The special review board may also recommend a new transfer out of a secure facility at the time of the revocation hearing.

Sec. 3. Laws 2009, chapter 79, article 13, section 3, subdivision 10, as amended by Laws 2009, chapter 173, article 2, section 1, is amended to read:

Subd. 10. **State-Operated Services**

The amounts that may be spent from the appropriation for each purpose are as follows:

Transfer Authority Related to State-Operated Services. Money appropriated to finance state-operated services may be transferred between the fiscal years of

the biennium with the approval of the commissioner of finance.

County Past Due Receivables. The commissioner is authorized to withhold county federal administrative reimbursement when the county of financial responsibility for cost-of-care payments due the state under Minnesota Statutes, section 246.54 or 253B.045, is 90 days past due. The commissioner shall deposit the withheld federal administrative earnings for the county into the general fund to settle the claims with the county of financial responsibility. The process for withholding funds is governed by Minnesota Statutes, section 256.017.

Forecast and Census Data. The commissioner shall include census data and fiscal projections for state-operated services and Minnesota sex offender services with the ~~November and~~ February budget ~~forecasts. Notwithstanding any contrary provision in this article, this paragraph shall not expire~~ forecast.

(a) Adult Mental Health Services	106,702,000	107,201,000

Appropriation Limitation. No part of the appropriation in this article to the commissioner for mental health treatment services provided by state-operated services shall be used for the Minnesota sex offender program.

Community Behavioral Health Hospitals. Under Minnesota Statutes, section 246.51, subdivision 1, a determination order for the clients served in a community behavioral health hospital operated by the commissioner

of human services is only required when a client's third-party coverage has been exhausted.

Base Adjustment. The general fund base is decreased by $500,000 for fiscal year 2012 and by $500,000 for fiscal year 2013.

(b) Minnesota Sex Offender Services

	Appropriations by Fund	
General	38,348,000	67,503,000
Federal Fund	26,495,000	0

Use of Federal Stabilization Funds. Of this appropriation, $26,495,000 in fiscal year 2010 is from the fiscal stabilization account in the federal fund to the commissioner. This appropriation must not be used for any activity or service for which federal reimbursement is claimed. This is a onetime appropriation.

(c) Minnesota Security Hospital and METO Services

	Appropriations by Fund	
General	230,000	83,735,000
Federal Fund	83,505,000	0

Minnesota Security Hospital. For the purposes of enhancing the safety of the public, improving supervision, and enhancing community-based mental health treatment, state-operated services may establish additional community capacity for providing treatment and supervision of clients who have been ordered into a less restrictive alternative of care from the state-operated services transitional services program consistent with Minnesota Statutes, section 246.014.

Use of Federal Stabilization Funds.

$83,505,000 in fiscal year 2010 is appropriated from the fiscal stabilization account in the federal fund to the commissioner. This appropriation must not be used for any activity or service for which federal reimbursement is claimed. This is a onetime appropriation.

Sec. 4. **REPEALER.**

Minnesota Statutes 2020, sections 246.0136; 252.025, subdivision 7; and 252.035, are repealed.

246.0136 ESTABLISHING ENTERPRISE ACTIVITIES IN STATE-OPERATED SERVICES.

Subdivision 1. **Planning for enterprise activities.** The commissioner of human services is directed to study and make recommendations to the legislature on establishing enterprise activities within state-operated services. Before implementing an enterprise activity, the commissioner must obtain statutory authorization for its implementation, except that the commissioner has authority to implement enterprise activities for adult mental health, adolescent services, and to establish a public group practice without statutory authorization. Enterprise activities are defined as the range of services, which are delivered by state employees, needed by people with disabilities and are fully funded by public or private third-party health insurance or other revenue sources available to clients that provide reimbursement for the services provided. Enterprise activities within state-operated services shall specialize in caring for vulnerable people for whom no other providers are available or for whom state-operated services may be the provider selected by the payer. In subsequent biennia after an enterprise activity is established within a state-operated service, the base state appropriation for that state-operated service shall be reduced proportionate to the size of the enterprise activity.

Subd. 2. **Required components of any proposal; considerations.** In any proposal for an enterprise activity brought to the legislature by the commissioner, the commissioner must demonstrate that there is public or private third-party health insurance or other revenue available to the people served, that the anticipated revenues to be collected will fully fund the services, that there will be sufficient funds for cash flow purposes, and that access to services by vulnerable populations served by state-operated services will not be limited by implementation of an enterprise activity. In studying the feasibility of establishing an enterprise activity, the commissioner must consider:

(1) creating public or private partnerships to facilitate client access to needed services;

(2) administrative simplification and efficiencies throughout the state-operated services system;

(3) converting or disposing of buildings not utilized and surplus lands; and

(4) exploring the efficiencies and benefits of establishing state-operated services as an independent state agency.

252.025 STATE HOSPITALS FOR PERSONS WITH DEVELOPMENTAL DISABILITIES.

Subd. 7. **Minnesota extended treatment options.** The commissioner shall develop by July 1, 1997, the Minnesota extended treatment options to serve Minnesotans who have developmental disabilities and exhibit severe behaviors which present a risk to public safety. This program is statewide and must provide specialized residential services in Cambridge and an array of community-based services with sufficient levels of care and a sufficient number of specialists to ensure that individuals referred to the program receive the appropriate care. The individuals working in the community-based services under this section are state employees supervised by the commissioner of human services. No layoffs shall occur as a result of restructuring under this section.

252.035 REGIONAL TREATMENT CENTER CATCHMENT AREAS.

The commissioner may administratively designate catchment areas for regional treatment centers and state nursing homes. Catchment areas may vary by client group served. Catchment areas in effect on January 1, 1989, may not be modified until the commissioner has consulted with the regional planning committees of the affected regional treatment centers.